

PLANNING COMMISSION MINUTES

JUNE 1, 2006

NEW BUSINESS:

Public Hearing and Consideration of Cases

DOCKET NO. 9-09-06W & 9-31-05W

Change in zoning from R-4 Single Family Residential to PEC Planned Employment Center, a Waiver of Section 5.5.4.B.1 to reduce the 50 foot wide Landscape Buffer Area to 15 feet wide and to omit the 6 foot tall berm, a Waiver of Section 10.2.4 to reduce the 25 foot wide Landscape Buffer Area to 15 feet wide adjacent to R-4, and a Waiver of Section 10.2.4 to omit the 15 foot wide Landscape Buffer Area at the shared property line of PEC, on property located at 12409 Old Lagrange Road (Tax Block 15 Lots 13 & 303), containing 2.02 acres, and a Detailed District Development Plan for Docket No. 9-31-05 for a drive lane to be located on Tract 3C with a Waiver of Section 10.2.4 to omit the 15 foot wide Landscape Buffer Area at the shared property line of PEC, located at 2400 Chamberlain Crossing Drive (Tax Block 15 Lots 604), containing 1.87 acres, with both Dockets being in Louisville Metro.

Project Name:	Chamberlain Crossing Business Park Phase 3
Owner/Applicant:	IAN, LLC – David Nicklies 6060 Dutchmans Lane, Suite 100 Louisville, Kentucky 40205
Existing Uses:	Single Family Residential
Proposed Use:	Office/Warehouse
Form District:	Suburban Workplace
Council District:	17 – Glen Stuckel
Staff Case Manager:	Aliza Tourkow, Planner II

Notice of this public hearing appeared in **The Courier Journal** on May 11, 2006, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

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The following spoke in favor of this request:

Jim Calvery, 6060 Dutchmans Lane, Suite 100, Louisville, Kentucky 40205; who submitted renderings of the buildings.

The following spoke in opposition:

No one.

SUMMARY OF TESTIMONY OF PROPONENTS:

Jim Calvery, Vice President of Nicklies Development Company, 6060 Dutchmans Lane Suite 110 Louisville, KY 40205, appeared on behalf of the Applicant, IAN, LLC, and SWP, LLC, and briefly reviewed with the Commission the proposed project. He indicated that there had been substantial input from members of the Commission's staff as well as residents and other interested parties in the development of the proposed development plan. He further testified that through the joint effort of the Applicant, its representatives, Commission staff, residents and concerned citizens, the overall goals and objectives of Cornerstone 2020 had been achieved.

Jim Calvery agreed to add a Binding Element to double the amount of trees required to be planted along Old LaGrange Road and Chamberlain Lane, along with adding Note #22 from the face of the plan as a binding element.

Jim Calvery with Nicklies Company, 6060 Dutchmans Lane, Suite 110, Louisville, KY 40205 then addressed the Commission regarding specific activities and documents the Applicant wanted submitted into the record.

Jim Calvery then requested that the Zone Change be approved due to compliance with Cornerstone 2020; and because the existing zoning is inappropriate and the requested zoning is more appropriate due to major changes of an economic and social nature as detailed in the Rezoning Justification Statement and in the submitted Proposed Findings of Fact.

SUMMARY OF TESTIMONY OF OPPONENTS:

No one spoke in opposition.

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An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the cd of the June 1, 2006 public hearing proceedings.

ZONING CHANGE – Docket No. 9-9-06W

In a business session subsequent to the public hearing on this request, the Commission took the following action.

On a motion by Commissioner Wells-Hatfield, the following resolution was unanimously adopted:

WHEREAS, The Commission finds that based upon testimony and evidence submitted during the public hearing, Land Development and Transportation Committee review, the staff report and the file of the case that the proposal conforms with KRS 100.213 because it agrees with the Comprehensive Plan of Metro Louisville and Jefferson County, its goals, objectives, guidelines and policies (sometimes called "Cornerstone 2020") as further detailed in these Findings; and

WHEREAS, the Planning Commission finds that the proposed zoning classification is appropriate as further detailed in these findings; and

WHEREAS, the Planning Commission finds that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of the area as further detailed in these findings; and

WHEREAS, the Planning Commission further finds that the property lies in the Suburban Work Place Form Area as identified by Core Graphic 1, and is consistent with Guideline 1.B. 10. because the proposal is characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting; because this proposal will contain small-scale uses or a cluster of uses in one structure within a master planned development; because adequate transportation access to, from, and throughout the proposal has been designed in agreement with this Guideline 1.B.10.; because significant buffering from abutting

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uses is provided naturally and as shown on the proposal; because the development is located at the intersection of an arterial (LaGrange Road) and a major collector (Chamberlain Lane) near an expressway (Gene Snyder Freeway I-265), as identified by Core Graphic 10, and is of a scale that is appropriate for the nearby neighborhoods, businesses and industrial uses, all as shown on the Detailed District Development Plan prepared by Land Design and Development, Incorporated and last updated on updated and provided to the Land Design and Transportation Committee on March 23, 2006 ("Development Plan"); and

WHEREAS, the Planning Commission further finds that the proposal complies with Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 3.1, 3.2, 3.4, 3.7, 3.8, 3.9, 3.12, 3.21, 3.22, 3.23, 3.24, 3.28 and 3.29 because the proposed development is of a scale and site design compatible with nearby existing development and with the pattern of development within the Suburban Work Place Form Area; because the type of building materials is appropriate for the character of the area and surrounding structures; because any adverse impact on adjacent residential uses, including traffic, parking, signs, and lighting, will be mitigated through the binding elements that have been proposed and agreed upon by the applicant; because appropriate transitioning from residential to non-residential uses will be provided through the use of natural vegetative buffers and landscaping, landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and set backs, which will also protect the character of residential areas, roadway corridors, and public spaces from visual intrusions; because the proposed development is designed to provide accessibility to people with disabilities; because the parking, loading and delivery areas are adequate for the proposed uses and are designed to minimize any adverse impact on adjacent residential areas, with the parking and circulation areas adjacent to the street screened and buffered; because the proposed signage is compatible with the Suburban Work Place Form Area and will be integrated with or attached to structures wherever possible; and

WHEREAS, the Planning Commission further finds that the proposal complies with Natural Areas and Scenic and Historic Resources Guideline 5 and all applicable Policies adopted thereunder including 5.1, 5.2, 5.3 and 5.6 because there are no known cultural or historic resources located on this site; because according to Core Graphic 5 there are also no severe or steep slopes or soils unsuitable for development on this site that could contribute to environmental degradation; and because the site is not located in a regulatory floodplain.

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WHEREAS, the Planning Commission further finds that the proposal complies with Economic Growth and Sustainability Guideline 6 and all applicable Policies thereunder including 6.1, 6.4, and 6.8 because the development is appropriately located in the Suburban Work Place Form Area to meet the needs of this workplace district and its employees, and because, as stated previously, this development is adjacent to an existing facility (Chamberlain Crossing Phase 1) serving Ford Truck Plant employees and is in close proximity to the existing Truck Plant itself; because the proposed development has chosen to locate on a site that will enable primary and secondary job creation in close proximity to existing social and economic infrastructures; because the proposed development adheres to the policies designed to promulgate the intentions of this Guideline; and

WHEREAS, the Planning Commission further finds that the proposal complies with Circulation Guideline 7 and all applicable Policies thereunder including 7.1, 7.2, 7.3, 7.5, 7.6, 7.9, 7.10, 7.14, and 7.15 because proposed design provides good internal circulation as well as connections to major thoroughfares and adjacent roadway networks; because it has been demonstrated that the development will not cause adverse impacts to the traffic-carrying capacity of Collins Lane and/or Chamberlain Lane and other nearby roads and intersections; because roadway improvements, already constructed, along Collins Lane and Chamberlain Lane included signalization and a right turn onto Chamberlain Lane, as well as, shoulder improvements, and the aforesaid improvements will be located on roadways with ample right of way, pavement width and carrying capacity; because sidewalks constructed along Collins Lane and Chamberlain Lane and throughout the development to the adjacent properties will facilitate pedestrian access to, from and throughout the development; because on-site parking (38 spaces provided, 41 spaces required max) is sufficient to serve the development and is set back and screened away from nearby existing residential areas; because the access point is located as reviewed and approved by the Louisville and Jefferson County Metro Department of Public Works and will not pose any safety hazards, as the Department's approval indicates; and because the applicant has installed a traffic signal at the intersection of Chamberlain Lane and Collins Lane; because the access points are located as reviewed and preliminarily approved by the Louisville and Jefferson County Metro Department of Public Works and will not pose any safety hazards for the nearby interchange with Highway 256; and because the agreed upon future connection to Chamberlain Crossing Drive provides for an alternative ingress and egress at the request of the Louisville and Jefferson County Metro Department

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of Public Works to better ensure safe maneuvering of trucks on and off Chamberlain Lane and Old LaGrange Road; and

WHEREAS, the Planning Commission further finds that the proposal complies with Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder including Policies 8.8 and 8.10 because primary access to the site can be had off Old LaGrange Road and Chamberlain Crossing Drive via the signal at Collins Lane and will lessen any traffic through areas of lower intensity; because the primary access points have adequate sight distance and have been constructed and approved by the Louisville and Jefferson County Metro Department of Public Works; because the system of internal traffic circulation as shown on the plan will be constructed after being reviewed and approved by the Department, and has appropriate linkages between parking areas which have been located so as to avoid creating nuisances to surrounding uses; and

WHEREAS, The Planning Commission finds that the proposal complies with Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder including Policies 9.1 and 9.2 because the location of the site has transit ("TARC") service (Route Nos. 49 & 55); because sidewalks will be provided along Chamberlain Lane and Collins Lane (currently installed) connecting into the improvements made during Phase 1, which connect to existing sidewalks; and because bicycle racks will be located where appropriate; and

WHEREAS, The Planning Commission further finds that the proposal complies with Flooding and Storm water Guideline 10 and all applicable Policies adopted thereunder including Policies 10.1, 10.2, 10.5, 10.6 and 10.7 because the site has no blue line streams and is not located in the 100 year regulatory floodplain; because the proposed plan has been approved by the Metropolitan Sewer District ("MSD"); because final drainage facility plans on file have been approved and future plans will meet or exceed MSD requirements as determined in the construction plan design process; because the detention and drainage facilities have been constructed in dedicated sanitary sewer and drainage easements and will ensure that peak storm water runoff will not exceed predevelopment conditions; and

WHEREAS, The Planning Commission finds that the proposal complies with Water Quality Guideline 11 and all applicable Policies adopted thereunder including Policy 11.3 because prior to any construction activity on site, a soil erosion and sediment

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control plan shall be submitted to and approved by MSD. See Erosion Prevention and Sediment Control Notes on the Development Plan.

WHEREAS, The Planning Commission finds that the proposal complies with Air Quality Guideline 12 and all applicable Policies adopted thereunder including Policies 12.1, 12.3, 12.4 and 12.8 because the plan was reviewed by and approved by the Louisville and Jefferson County Metro Air Pollution Control District as indicated in the letter dated February 11, 2002 from Tom Pinto, APCD Technical Coordinator; and because mass transit service is available to the site and sidewalks are provided as appropriate along the east side of Collins Lane and the north side of Chamberlain Lane; and

WHEREAS, The Planning Commission finds that the proposal complies with Landscape Character Guideline 13 and all applicable Policies adopted thereunder including Policies 13.1, 13.2, 13.5 and 13.6 because landscaping in compliance with Article 12 (exception: waivers granted) will be provided and construction fencing shall be erected prior to any construction activities on site to prevent compaction of the root systems of trees to be preserved by enclosing the areas beneath the drip lines; and

WHEREAS, The Planning Commission finds that the proposal complies with Infrastructure Guideline 14 and all applicable Policies adopted thereunder including Policies 14.2, 14.3 and 14.4 because the site is served by all necessary utilities including water and sewerage facilities by lateral extension to the MSD Hite Creek Treatment Plant; and

WHEREAS, The Planning Commission finds that the proposal complies with Community Facilities Guideline 15 and all applicable Policies adopted thereunder including Policy 15.9 because the site is located within the Worthington Fire Protection District; and

WHEREAS, The Commission finds that the proposal has received preliminary approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Department of Public Works, and the Metropolitan Sewer District; and

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WHEREAS, The Commission finds the proposal to be in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the Louisville/Jefferson County Metro Government that the change in zoning **from R-4 Single Family Residential to PEC Planned Employment Center** and is on property described in the attached legal description be **APPROVED ON CONDITION** that the landscaping (amount of trees) is doubled along Chamberlain Lane and Old LaGrange Road;.

The vote was as follows:

YES: Commissioners Hamilton, Abstain, Jones, Ernst, Blake, Carlson, Queenan, Wells-Hatfield and Howard.

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Adams.

ABSTAINING: No one.

DETAILED DISTRICT DEVELOPMENT PLAN FOR DOCKET NO. 9-09-06W

On a motion by Commissioner Wells-Hatfield, the following resolution was unanimously adopted:

RESOLVED, That the Louisville Metro Planning Commission does hereby **APPROVE** the district development plan **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 21,125 square feet of gross floor area.
3. Signs shall be in conformance with Chapter 8 of the Land Development Code.

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4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument
 - f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

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7. If a building permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
8. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
9. There shall be no outdoor PA system.
10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 1, 2006, Planning Commission meeting.
12. No overnight idling of trucks shall be permitted on-site.
13. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

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14. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
15. The amount of landscaping required to be planted in LBAs along Chamberlain Lane and Old LaGrange Road shall be doubled.
16. The applicant shall provide a 30' access easement along the east property line (The McKinney Property) to provide non-residential access to this R-4 lot if ever The McKinney Property were to be developed as a non-residential use. The applicant shall work with the developer of The McKinney Property on the location of the 30' access easement.

The vote was as follows:

YES: Commissioners Hamilton, Abstain, Jones, Ernst, Blake, Carlson, Queenan, Wells-Hatfield and Howard.

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Adams.

ABSTAINING: No one.

WAIVER FOR DOCKET NO. 9-9-06W:

Waiver request of Section 5.5.4.B.1 to reduce the 50 foot wide Landscape Buffer Area along the north property line to 15 feet wide and to omit the 6 foot tall berm adjacent to R-4 for Docket No. 9-9-06W (waivers 1 and 2), and Waiver request of Section 10.2.4 to reduce the 25 foot wide Landscape Buffer Area along the north property line to 15 feet wide adjacent to R-4 (waiver 3):

On a motion by Commissioner Wells-Hatfield, the following resolution was unanimously adopted:

WHEREAS, The Planning Commission finds that the waiver request will not adversely affect adjacent property owners because there is a thick, mature tree line adjacent to this area on the R-4 lot that provides existing screening, along with a wide expanse of existing green space on the adjacent property. The 15 feet of

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buffering provided on the rezoning site will contain vegetation and an 8 foot tall fence, located at the property line. The vegetation will be visible to the PEC site. A berm would damage the roots of the existing trees; and

WHEREAS, The Commission finds that the waiver will not violate specific guidelines of Cornerstone 2020 because existing trees on the adjacent site will have their root zones preserved (4.5 & 5.1), vegetation will be provided on-site, and an 8' tall fence will be provided at the R-4 property line. These measures adhere to Chapter 10 of the LDC, provide residential compatibility (3.3), protect adjacent sites from visual nuisance (3.98), provide transitions (3.21) and buffers (3.22), and minimize the impacts of loading (3.24); and

WHEREAS, The Commission finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, for the north side of the site must contain the truck loading area. The lot is on a corner and loading must be visually screened from roads and from residences. By locating the loading behind the building, it will not be visible to passersby on the roads. Truck maneuvering requires a large turning radius, which is being provided. This does not leave enough room for more than a 15' wide LBA beside the R-4 lot. By requesting these waivers, all road frontage LBAs can be provided and adequate parking can be provided; and

WHEREAS, The Commission finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant, because adequate truck turn radii and adequate parking could not be provided if the entire 50' width and 25' width LBAs were to be provided; and

WHEREAS, the Louisville Metro Planning Commission does hereby find that the waiver will not adversely affect adjacent property owners because the waiver occurs between two lots owned by the same property owner; and

WHEREAS, the Commission finds that the waiver will not violate specific guidelines of Cornerstone 2020 because cross over access will be shared between the two lots, reducing vehicular trips on main roads and providing unified circulation (2.13, 7.13, 7.16); and

WHEREAS, the Commission finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because providing 0' of LBA

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and no vegetation between the two sites will permit the two sites to visually be one development; and

WHEREAS, the Commission finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived by providing joint access and unified circulation between two phases of this business park; now, therefore, be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **GRANT** the waiver of Section 5.5.4.B.1 to reduce the 50-foot wide Landscape Buffer Area (LBA) along the north property line to 15 feet wide and to omit the 6-foot tall berm adjacent to R-4 for Docket No. 9-9-06W (waivers 1 and 2), and does also **GRANT** a waiver of Section 10.2.4 to reduce the 25-foot wide LBA along the north property line to 15-feet wide adjacent to R-4 for Docket No. 9-9-06W (waiver 3); and does also **GRANT** a waiver of Section 10.2.4 to omit the 15 foot wide LBA and vegetation at the shared property line of PEC (waiver 4)

The vote was as follows:

YES: Commissioners Hamilton, Abstain, Jones, Ernst, Blake, Carlson, Queenan, Wells-Hatfield and Howard.

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Adams.

ABSTAINING: No one.

DETAILED DISTRICT DEVELOPMENT PLAN FOR DOCKET NO. 9-31-05W:

On a motion by Commissioner Wells-Hatfield, the following resolution was unanimously adopted:

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RESOLVED, That the Louisville Metro Planning Commission does hereby **APPROVE** the district development plan that **SUBJECT** to the following binding elements:

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

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5. If a paving permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

All binding elements stated in this report are accepted in total without exception by the entity requesting approval of these development items.

The vote was as follows:

YES: Commissioners Hamilton, Abstain, Jones, Ernst, Blake, Carlson, Queenan, Wells-Hatfield and Howard.

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Adams.

ABSTAINING: No one.

WAIVER FOR DOCKET NO. 9-31-05W & FOR DOCKET NO. 9-9-06W:

Waiver request of Section 10.2.4 to omit the 15 foot wide Landscape Buffer Area and vegetation at the shared property line of PEC for Docket Nos. 9-9-06W and 9-31-05W (waiver 4 for 9-9-06W and waiver 1 for 9-31-05W)

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On a motion by Commissioner Wells-Hatfield, the following resolution was unanimously adopted:

WHEREAS, the Louisville Metro Planning Commission does hereby find that the waiver will not adversely affect adjacent property owners because the waiver occurs between two lots owned by the same property owner; and

WHEREAS, the Commission finds that the waiver will not violate specific guidelines of Cornerstone 2020 because cross over access will be shared between the two lots, reducing vehicular trips on main roads and providing unified circulation (2.13, 7.13, 7.16); and

WHEREAS, the Commission finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because providing 0' of LBA and no vegetation between the two sites will permit the two sites to visually be one development; and

WHEREAS, the Commission finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived by providing joint access and unified circulation between two phases of this business park; now, therefore, be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **GRANT** the waiver of Section 10.2.4 to omit the 15-foot wide Landscape Buffer Area and v

The vote was as follows:

YES: Commissioners Hamilton, Abstain, Jones, Ernst, Blake, Carlson, Queenan, Wells-Hatfield and Howard.

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Adams.

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ABSTAINING: No one.

ZONING DESCRIPTION
CHAMBERLAIN CROSSING BUSINESS PARK
PHASE 3
12409 Old La Grange Road

Beginning at the point of intersection of the north right-of-way line of Old La Grange Road and the east right-of-way line of Chamberlain Lane, thence with the east right-of-way line of Chamberlain Lane North $56^{\circ}44'54''$ West, 58.37 feet to a point, thence with a curve to the left having a radius of 1,229.68 feet and a chord North $62^{\circ}28'07''$ West, 344.20 feet to a point, said point being the south east corner of IAN LLC tract as recorded in Deed Book 7592 Page 795 in the office of the Clerk of Court of Jefferson County, Kentucky, thence leaving the right-of-way line of Chamberlain Lane and following the east line of said tract North $07^{\circ}12'09''$ East, 36.15 feet to a point, thence North $07^{\circ}12'09''$ East, 201.66 feet to a point, thence leaving said line South $56^{\circ}46'28''$ East, 435.26 feet to the north right-of-way line of Old La Grange Road, thence following said line South $35^{\circ}53'36''$ West, 202.65 feet to the point of beginning and containing 2.02 Acres more or less.

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PLANNING &
DESIGN SERVICES

9-9-0611

Planning Commission Staff Report

June 1, 2006



Case:	9-9-06W & 9-31-05W Tract 3C
Project Name:	Chamberlain Crossing Business Park Phase 3
Location:	12409 Old Lagrange Road (9-9-06W) 2400 Chamberlain Crossing Dr. (9-31-05W)
Owner:	IAN, LLC
Applicant:	David Nicklies
Engineer/Designer:	BTM Engineering
Project Size:	2.02 acres (9-9-06W) 1.87 acres (9-31-05W)
Form District:	Suburban Workplace
Zoning Change:	R-4 to PEC
Existing Use:	Single Family Residential
Proposed Use:	Office/Warehouse
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
Case Manager:	Aliza Tourkow, Planner II

Request for 9-9-06W

Change in zoning from R-4 Single Family Residential to PEC Planned Employment Center, a Waiver of Section 5.5.4.B.1 to reduce the 50 foot wide Landscape Buffer Area to 15 feet wide and to omit the 6 foot tall berm, a Waiver of Section 10.2.4 to reduce the 25 foot wide Landscape Buffer Area to 15 feet wide adjacent to R-4, and a Waiver of Section 10.2.4 to omit the 15 foot wide Landscape Buffer Area at the shared property line of PEC, on property located at 12409 Old Lagrange Road (Tax Block 15 Lots 13 & 303), containing 2.02 acres and being in Louisville Metro.

Request for 9-31-05W

Detailed District Development Plan for a drive lane to be located on Tract 3C and a Waiver of Section 10.2.4 to omit the 15 foot wide Landscape Buffer Area at the shared property line of PEC, located at 2400 Chamberlain Crossing Drive (Tax Block 15 Lots 604), containing 1.87 acres, and being in Louisville Metro.

Staff Recommendation for 9-9-06W

Staff recommends APPROVAL of the rezoning request and APPROVAL of the development plan, along with the binding elements included in this report.

Staff recommends APPROVAL of the waiver request of Section 5.5.4.B.1 to reduce the 50 foot wide Landscape Buffer Area along the north property line to 15 feet wide and to omit the 6 foot tall berm adjacent to R-4.

Staff recommends APPROVAL of the waiver request of Section 10.2.4 to reduce the 25 foot wide Landscape Buffer Area along the north property line to 15 feet wide adjacent to R-4.

Staff recommends APPROVAL of the waiver request of Section 10.2.4 to omit the 15 foot wide Landscape Buffer Area and vegetation at the shared property line of PEC.

Staff Recommendation for 9-31-05W

Staff recommends APPROVAL of the development plan, along with the binding elements included in this report.

Staff recommends APPROVAL of the waiver request of Section 10.2.4 to omit the 15 foot wide Landscape Buffer Area and vegetation at the shared property line of PEC.

Case Summary / Background**Summary**

The applicant proposes to rezone this site from R-4 to PEC in order to construct a 21,125 sf office/warehouse building. The structure will be one-story tall. This rezoning will be an expansion of the Chamberlain Crossing Business Park. Loading docks will be located on the north side of the building facing the adjacent R-4 property. 38 parking spaces will be located along the frontages of Chamberlain Lane and Old Lagrange Road. A monument style sign is proposed and it will be 8 feet tall, 60 square feet in area. A drive lane for the proposal will be constructed across the property line of Tract 3C on an adjacent property requiring a DDDP for Docket No. 9-31-05W. No other construction is proposed for the 9-31-05W lot.

Elevations are needed to determine compatibility. The applicant stated at the March 23, 2006, LD&T meeting that elevations would either be presented at a subsequent LD&T meeting, or they will be mailed to commissioners and provided to staff before the public hearing.

Site Context

The site is located at the intersection of Chamberlain Lane and Old Lagrange Road, adjacent to the existing PEC zoned Chamberlain Crossing Business Park Phase 2 to the west. Two R-4 Single Family lots are located to the north of the site, with a CSX railroad track on the north side of the R-4 lots. C-1 lots are located across the intersection on all 3 corners.

Waivers

Per Section 5.5.4.B.1, a 50 foot wide LBA with a 6 foot tall berm is required where industrial uses are adjacent to single family zones. The north side of the site contains a property boundary with R-4 and only 15 feet of LBA is proposed. One waiver is being requested to waive 35 feet of the 50 foot requirement. The applicant also seeks a second waiver to omit the required 6' tall berm. Additionally, a 25 foot wide LBA is required per Section 10.2.4 where PEC and R-4 share a property line, which overlaps the area where the 50 foot wide LBA is required. A third waiver is being sought to only provide 15 feet. The required 8 foot tall wood fence with vegetation will be provided.

A fourth waiver is also being requested for 9-9-06 W, to omit the 15 foot wide LBA and vegetation at the shared property line of the PEC site to the west, in order to permit a drive lane to overlap the property line. The same waiver is requested for 9-31-05W, which is the adjacent PEC site. That site is under the same ownership as the rezoning site and was rezoned to PEC in 2005. The applicant desires to provide vehicular connectivity between the 2 lots, as the Comprehensive Plan encourages. When a structure is proposed for the adjacent lot in the future, an additional drive lane will connect from the 9-31-05W lot to the drive lane proposed on the rezoning site. A cross-over/access agreement must be recorded between the two properties.

Waiver Location	Requirement Provided		Waiver Amount
Industrial use adjacent to Single Family (Section 5.5.4.B.1)	50'	15'	35'
Industrial use adjacent to Single Family (Section 5.5.4.B.1)	6' tall berm	Omit berm	Omit berm
PEC adjacent to R-4 (Section 10.2.4)	25'	15'	10'
PEC adjacent to PEC (Section 10.2.4) for 9-9-06W	15'	0'	15'
PEC adjacent to PEC (Section 10.2.4) for 9-31-05W	15'	0'	15'

Land Use / Zoning District / Form District

	Land Use	Zoning	Form District
Subject			
Existing	Single Family Residential	R-4	SW
Proposed	Office/Warehouse	PEC	SW
Surrounding			
North	Single Family Residential	R-4	SW
South	Commercial	C-1	SW
East	Commercial	C-1	SW
West	Commercial	C-1	SW

Project History

Project History	Date	Issues addressed / discussion / changes to proposal
Pre-application meeting	1/17/06	LBAs, waivers, setbacks
Project submittal	3/2/06	
Staff review	3/8/06	LBAs, waivers
Revision submittal #1		
Site Inspection Committee	3/17/06	Waivers, screening
LD&T review	3/23/06	LBAs, waivers
Public hearing	TBD	

Note: The following information represents staff analysis of the subject property with respect to site inspection/observation, sound planning practices, and adopted policies and regulations of the jurisdiction. Materials submitted by the applicant or their representative prior to the deadline for filing information related to cases docketed for this hearing were reviewed and specifically applied in the staff review of this request. The board is advised to consider this staff report as well as new information introduced at the hearing in formulating their decision.

Site Inspection Committee Review

1. It appears that you could avoid the waiver for the access road 0' LBA by moving the property line.
2. Need rendering.
3. The proposed 8' wood fence should move closer to the property line so that landscaping can soften the fence.
4. There is an existing row of mature Holly on the north adjoining property and other species appears to mitigate the need for a 50' buffer and 6' berm.
5. The 15' provided LBA appears to be adequate on the north property line.
6. Appears that there should be double the tree landscape required along Chamberlain and Old LaGrange to mitigate the architecture and scale compatibility issues.

Staff Findings

Relationship to Comprehensive Plan - Cornerstone 2020 Plan Elements:

1. Community Form – Suburban Workplace is characterized by industrial and office uses with a single large-scale use or cluster of uses within a master planned development. Chamberlain Business Park is a master planned development and the rezoning site will comprise Phase 3 of the development. The proposed structure is large in scale, as are the other structures in this business park. It is unknown if the design of the structure is compatible, for no elevations have been provided.

Noise, lighting and visual impact will be minimized by locating the loading behind the structure and by providing an 8' tall fence with vegetation in a 15' wide LBA at

the R-4 property line. Even though waivers are requested beside the R-4 property for buffering, the intent of the LDC has been met. 15' wide LBAs have been provided to screen VUA from the roadways. All required vegetation will be provided.

(1.B.10, 3.1, 3.2, 3.7, 3.8, 3.9, 3.17, 3.21, 3.22, 3.24, 4.5, 5.1, 6.1, 6.4)

2. Mobility / Transportation – Right-of-way will be dedicated along both roads and pavement will be widened along Old Lagrange Road by McBride Homes as per approved plans dated December 2005. Sidewalks are proposed along both roads and a pedestrian connection will link the roadside sidewalks to the structure. The driveway that straddles the lot line on the west side will provide shared access between the rezoning lot and Phase 2 of Chamberlain Crossing Business Park.
(7.1, 7.2, 7.3, 7.5, 7.6, 7.9, 7.13, 7.16, 9.1, 9.2)

3. Livability / Environment – No detention basins are proposed and MSD has provided preliminary approval of the proposal. No drainage issues appear unresolved. (10.7)

Criteria for approving the waiver request of Section 5.5.4.B.1 to reduce the 50 foot wide Landscape Buffer Area along the north property line to 15 feet wide and to omit the 6 foot tall berm adjacent to R-4 for Docket No. 9-9-06W (waivers 1 and 2), and Criteria for approving the waiver request of Section 10.2.4 to reduce the 25 foot wide Landscape Buffer Area along the north property line to 15 feet wide adjacent to R-4 for Docket No. 9-9-06W (waiver 3):

1. The waiver will not adversely affect adjacent property owners because there is a thick, mature tree line adjacent to this area on the R-4 lot that provides existing screening, along with a wide expanse of existing green space on the adjacent property. The 15 feet of buffering provided on the rezoning site will contain vegetation and an 8 foot tall fence, located at the property line. The vegetation will be visible to the PEC site. A berm would damage the roots of the existing trees.
2. The waiver will not violate specific guidelines of Cornerstone 2020 because existing trees on the adjacent site will have their root zones preserved (4.5 & 5.1), vegetation will be provided on-site, and an 8' tall fence will be provided at the R-4 property line. These measures adhere to Chapter 10 of the LDC, provide residential compatibility (3.3), protect adjacent sites from visual nuisance (3.98), provide transitions (3.21) and buffers (3.22), and minimize the impacts of loading (3.24).
3. The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, for the north side of the site must contain the truck loading area. The lot is on a corner and loading must be visually screened from roads and from residences. By locating the loading behind the building, it will not be

visible to passersby on the roads. Truck maneuvering requires a large turning radius, which is being provided. This does not leave enough room for more than a 15' wide LBA beside the R-4 lot. By requesting these waivers, all road frontage LBAs can be provided and adequate parking can be provided.

4. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant, because adequate truck turn radii and adequate parking could not be provided if the entire 50' width and 25' width LBAs were to be provided.

Criteria for approving waiver request of Section 10.2.4 to omit the 15 foot wide Landscape Buffer Area and vegetation at the shared property line of PEC for Docket Nos. 9-9-06W and 9-31-05W (waiver 4 for 9-9-06W and waiver 1 for 9-31-05W):

1. The waiver will not adversely affect adjacent property owners because the waiver occurs between two lots owned by the same property owner.
2. The waiver will not violate specific guidelines of Cornerstone 2020 because cross over access will be shared between the two lots, reducing vehicular trips on main roads and providing unified circulation (2.13, 7.13, 7.16).
3. The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because providing 0' of LBA and no vegetation between the two sites will permit the two sites to visually be one development.
4. The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived by providing joint access and unified circulation between two phases of this business park.

Standard of Review

Criteria for granting the proposed rezoning:

1. The proposed rezoning complies with the applicable guidelines and policies Cornerstone 2020; **or**
2. The existing zoning classification is inappropriate and the proposed classification is appropriate; **or**
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

Criteria for approving waiver:

1. The waiver will not adversely affect adjacent property owners; **and**

2. The waiver will not violate specific guidelines of Cornerstone 2020; **and**
3. The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; **and**
4. Either:
 - a. The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); **or**
 - b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

Attached Documents / Information

1. Zoning Map
2. Aerial Map

Notification

The following forms of notification were provided pertaining to this proposal:

Date	Description	Recipients
3/10/06	LD&T notice	APO & Neighborhood Groups
4/26/06	Public Hearing Notice	APO & Neighborhood Groups

Standard Binding Elements for Docket No. 9-9-06W

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 21,125 square feet of gross floor area.
3. Signs shall be as presented at the public hearing (60 square feet and 8 feet tall).
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument
 - f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
7. If a building permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
8. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
9. There shall be no outdoor PA system.
10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees,

contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 1, 2006, Planning Commission meeting.
12. No overnight idling of trucks shall be permitted on-site.
13. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
14. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

Standard Binding Elements for Docket No. 9-31-05W

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:

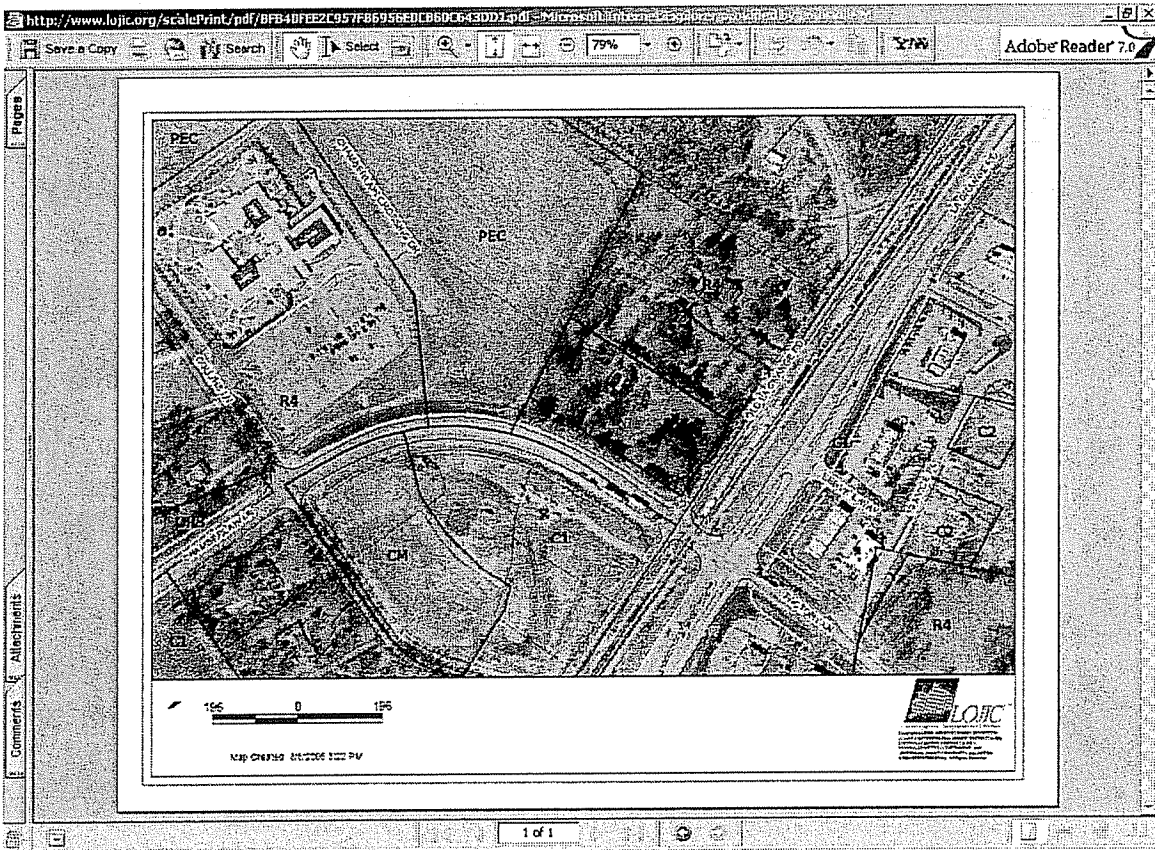
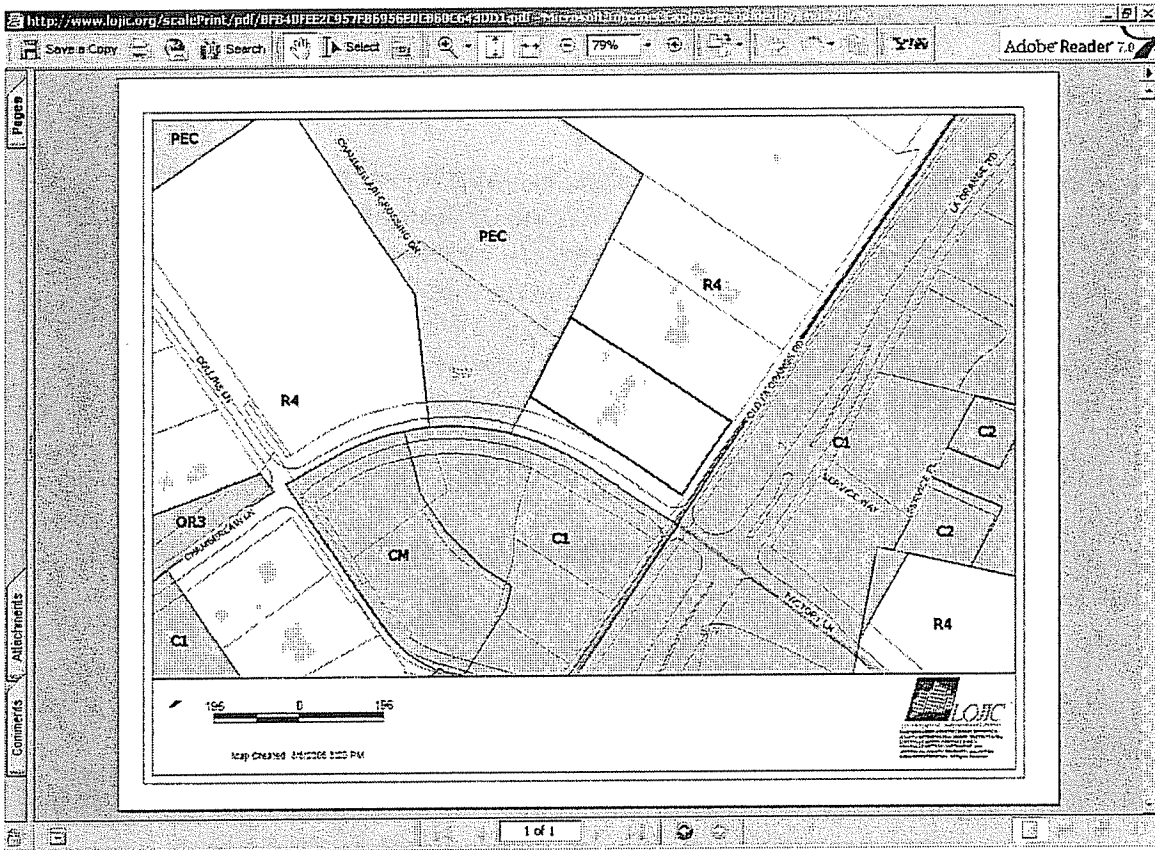
- a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. If a paving permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

All binding elements stated in this report are accepted in total without exception by the entity requesting approval of these development items.

Name

Title

Date



BINDING ELEMENTS

DOCKET NO. 9-09-06W

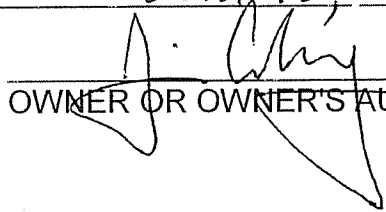
1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 21,125 square feet of gross floor area.
3. Signs shall be in conformance with Chapter 8 of the Land Development Code.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument

- e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument
 - f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
- 7. If a building permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
 - 8. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 - 9. There shall be no outdoor PA system.
 - 10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 - 11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 1, 2006, Planning Commission meeting.
 - 12. No overnight idling of trucks shall be permitted on-site.
 - 13. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting

shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

14. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
15. The amount of landscaping required to be planted in LBAs along Chamberlain Lane and Old LaGrange Road shall be doubled.
16. The applicant shall provide a 30' access easement along the east property line (The McKinney Property) to provide non-residential access to this R-4 lot if ever The McKinney Property were to be developed as a non-residential use. The applicant shall work with the developer of The McKinney Property on the location of the 30' access easement.

The above binding elements of the district development plan are agreed to by the property owner June 15,, 2006.


OWNER OR OWNER'S AUTHORIZED REPRESENTATIVE